

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES
Thursday, January 28, 2010**

CALL TO ORDER/ROLL CALL

The January 28, 2010 meeting of the Commission on Human Rights was called to order at 4:03 p.m. by Chairperson Wendy Francis.

Roll Call was documented as follows:

MEMBERS PRESENT

Commissioners Wendy Francis, Karla Cooper, Dick Noble, Hazell Rodriguez and Jose Quintero.
Quorum present.

MEMBERS ABSENT

Commissioner Gene Crump.

STAFF PRESENT

Director Larry Williams, Investigators Angela Wortman and Margie Nichols, and Intern Crystal Scholl.

APPROVAL OF DECEMBER 10, 2009 MINUTES

A motion was made by Commissioner Noble, seconded by Commissioner Cooper to approve the minutes of the December 10, 2009 meeting. Chair Francis then requested roll call.

Voting Aye: Commissioners Cooper, Noble.

Abstaining: Quintero, Rodriguez, Francis.

Motion to approve the December 10, 2009 minutes carried 2-0-3.

APPROVAL OF JANUARY 28, 2010 AGENDA

A motion was made by Commissioner Cooper, seconded by Noble to approve the January 28, 2010 meeting agenda.

Voting Aye: Commissioners Cooper, Noble, Quintero, Rodriguez, Francis.

Motion to approve the January 28, 2010 Agenda carried 5-0.

CASE DISPOSITIONS

1. LCHR No.: 09-0616-025-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez and seconded by Commissioner Noble.

Commissioner Rodriguez asked if there was any basis for the allegations that the Complainant's supervisor would go out with his female employees romantically/socially and 'use/abuse' the women. Investigator Wortman indicated there was evidence that he dated one employee for sure, and possibly others, but 'use and abuse' was another manager's words and she didn't find any evidence of that. The most evidence found was that he would argue at work with one woman he had dated which caused some friction/tension. This employee later resigned.

Commissioner Rodriguez asked why was the Complainant's boyfriend terminated. Investigator Wortman indicated it was for allegedly giving out free drinks. He felt it was because their relationship went sour. It really hinged on an incident at the apartment one night when all three were drinking. There was a falling out and, within a month of his moving out of the apartment, he was fired. Commissioner Rodriguez asked what specifically happened in the apartment. Did the Complainant indicate if that had to do with her firing? Investigator Wortman replied that they were all intoxicated and the boyfriend was passed out. The rumor was that either the manager hit on the Complainant or the Complainant hit on the manager. The Complainant was not willing to tell Investigator Wortman what happened. She said they were just all intoxicated, but admits that everything went south after that night.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Rodriguez, Cooper, Quintero, Noble and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

1. LCHR No.: 09-0622-026-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez and seconded by Commissioner Cooper.

Commissioner Francis remarked that the evidence shows that the Respondent took immediate steps to investigate the complaints and treated both employees as per company policy denying them both raises during their annual performance evaluations.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners: Francis, Cooper, Quintero, Noble and Rodriguez.
Motion for a finding of **No Reasonable Cause** carried 5-0.

3. LCHR No.: 09-0708-029-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Noble and seconded by Commissioner Quintero.

Commissioner Rodriguez questioned the Complainant's hire date listed on Page 2 of the report.

Investigator Wortman verified that the hire date was October 17, 2008, not 2009.

Commissioner Rodriguez asked how stand-by status was determined. Investigator Wortman replied that stand-by status was determined by a variety of factors: location of cabs (a main factor) and location and types of new calls coming in. She added that certain people want certain cab driver, some only want female cab drivers, and some drivers only have wheelchair accessible vans. So, if someone is handicapped or in a wheelchair, it has to be a wheelchair accessible van that responds. Drivers don't know the location of other cabs; who else is available, or who is closer. For example: A call comes in from the airport, and the Complainant is on stand-by in Havelock. Knowing that another driver is about to drop off someone downtown, they (dispatcher) would send that driver since it was closer. They would not send the stand-by driver in Havelock. Commissioner Rodriguez asked if there was any sense that it had anything to do with gender? Investigator Wortman replied no, calls are received and dispatched according to the needs of the caller and availability of the closest driver. Commissioner Cooper asked if there was a company policy under the section on termination of what was appropriate cab etiquette for the driver and the passenger. Investigator Wortman stated there are policies and procedures which spell out wait times and drivers are trained on that. She was not sure if they talk about religion or some of the other issues the Complainant had, but could look further if the Commission requested it.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Cooper, Quintero, Noble, Rodriguez and Francis.

Motion for a finding of **No Reasonable Cause** carried 5-0.

4. LCHR No.: 09-0708-030-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper and seconded by Commissioner Noble.

Hearing no discussion Chair Francis requested roll call.

Voting Aye: Commissioners Quintero, Noble, Rodriguez, Cooper and Francis.

Motion for a finding of **No Reasonable Cause** carried 5-0.

5. LCHR No.: 09-0710-031-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper and seconded by Commissioner Quintero.

Commissioner Rodriguez requested confirmation that the Complainant was training new employees and if the Complainant's job was no longer going to exist as she knew it. Investigator Nichols indicated there was a baseline of where they had to start with this process, and there was some argument as to

whether she was training, or if she was assisting. The Complainant was supposed to be training along with the new people coming in on the Excel. They had people coming in that already knew it (Excel), who needed to first learn the baseline system. She, and the others who had already started, were also being trained on the new system. They were phasing out her existing position because of the new system they were implementing. Commissioner Cooper asked what the Complainant's role was in the investigation. Investigator Nichols replied that she was one witness that had been identified by other employees who had already made a complaint. When she was being interviewed, she also made the allegations, so they also had her sign a complaint. Commissioner Rodriguez asked if the Complainant admitted she did not want any temporary jobs that were of short duration. Investigator Nichols said yes, she did not.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Noble, Rodriguez, Cooper, Quintero and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

6. LCHR No.: 09-0710-032-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Noble and seconded by Commissioner Cooper.

Commissioner Rodriguez asked if the Complainant was aware she was still eligible to seek employment through the agency. Investigator Nichols replied yes, but she stopped calling so was placed on inactive. She further stated that from the Complainant's perspective, since they didn't place her in anything, she felt she had been basically terminated.

Hearing no further discussion Chair Francis requested roll call.

Voting Aye: Commissioners Rodriguez, Cooper, Quintero, Noble and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

7. LCHR No.: 09-0720-033-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez, seconded by Commissioner Noble.

Hearing no discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Cooper, Quintero, Noble, Rodriguez and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

8. LCHR No.: 09-0720-034-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Francis and seconded by Commissioner Quintero.

Commissioner Rodriguez indicated this case was related to the previous case. She noted that it appeared that the Respondent was given 30 days to correct the situation, but asked why the Complainant was only given four days. Investigator Wortman replied that she did not ask that question, but thought it was because the Respondent was upset and misled into believing that everything was good. Commissioner Rodriguez asked if the Complainant was supposed to inform the Respondent that everything was ready for the audit, and that the goal could be accomplished? Investigator Wortman replied yes, they came very close, just a day or two past that goal.

Commissioner Rodriguez then asked if the Complainant gave any reasoning or explanation as to why she had represented they were ready, and then obviously they were not. Investigator Wortman replied that the Complainant thought they were ready also, but admitted that within five minutes with the auditor, knew they were not balanced. Commissioner Rodriguez asked if the Complainant was the supervisor of the person responsible for the accounting and if she had any knowledge of what was required to be ready for the audit? Investigator Wortman said the Complainant was the supervisor but may not have had direct knowledge of how the audit took place. Her subordinate would have because she assisted the actual accountant in previous years.

Commissioner Rodriguez asked what qualifications did the owner had for the Complainant's position. Investigator Wortman replied that he wanted an executive/administrative assistant; but that person would not have anything to do with accounting. Commissioner Cooper asked if it was customary for the executive assistant to supervise the accountant. Investigator Wortman replied that she was asked to and the Respondent knew that was happening, but there was a lot of position changing and reorganization going on.

Commissioner Cooper stated there was some blame laid onto a previous person (a male) that had been doing the accounting. Investigator Wortman indicated that person was an actual employee on the commercial side of the business. He would enter deposits and pay some of the expenses, but denied that he had anything to do with balancing the trust account and doing the accounting work.

Commissioner Cooper asked if there was any kind of balancing of books when that responsibility shifted and if there was a starting period where everything was balanced. Investigator Wortman replied that yes, the account was balanced when they were turned over to her. However, the Complainant wasn't supposed to be responsible for the books, only the supervision of the accounting clerk. In addition, there were a lot of changes going on that made that job more complicated.

Hearing no further discussion Chair Francis requested roll call.

Voting Aye: Commissioners Cooper, Quintero, Noble, Rodriguez and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

9. LCHR No.: 09-0731-039-E

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper, seconded by Commissioner Quintero.

Discussion: Commissioner Rodriguez stated the Complaint and said the reason she was given for termination was because she was not making the same business decisions. In reading the report, she noted it said the owner wanted her (the Complainant) to do things that she felt were not legal or ethical, but the Respondent did not cite any issues with her job performance. Investigator Wortman agreed saying that the Respondent neither admitted nor denied telling the Complainant that. Commissioner Rodriguez asked if there was evidence that he was advised to fire her without giving her 90-days notice. Investigator Wortman replied that she did not ask the third party accountant, because it made sense that would be the advice given and would have been the decision he would have made.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Quintero, Noble, Rodriguez, Cooper and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

10. LCHR No.: 09-0817-043-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Noble and seconded by Commissioner Rodriguez.

Commissioner Rodriguez asked why Complainant wasn't told they had concerns about her job performance and why they would hire someone that supposedly had little or no experience. Investigator Wortman replied that Respondents said they did not warn her about her performance because they felt she did not have the knowledge or skills, so it would not have made a difference. She added that some of the outstate agencies stated that they did not want her sent back and they felt it was best to just terminate her and find someone who had a better skill set. Investigator Wortman explained there were some basic issues that she allegedly couldn't fix. Complainant said that she hadn't been in a job where it involved troubleshooting in about 10 years, and since then everything was now updated to new programming. Commissioner Rodriguez asked why the Respondent felt the Complainant was qualified to do this job. Investigator Wortman said that the Complainant was told that her main focus was on the database; which was the intention, but you have people that don't understand computers and want the computer person to fix problems. Respondent alleges she was not able to do that.

Hearing no further discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Noble, Rodriguez, Cooper, Quintero and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

PRE-DETERMINATION SETTLEMENT AGREEMENTS

Chair Francis indicated that items 11, 12, 13 be heard as collective vote.

11. LCHR No.: 09-1023-054-E

12. LCHR No.: 09-1030-055-E (corrected case number)

13. LCHR No.: 09-1207-013-H

A motion was made by Commissioner Noble and seconded by Commissioner Cooper to accept the pre-determination settlement agreements as written.

Hearing no discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Rodriguez, Cooper, Quintero, Noble and Francis.

Motion to accept settlements 6-0.

ADMINISTRATIVE CLOSURES

14. LCHR No.: 08-0829-057-E-R

A motion to accept the Administrative Closure/Withdrawal was made by Commissioner Cooper and seconded by Noble.

Hearing no discussion, Chair Francis requested roll call.

Voting Aye: Commissioners Quintero, Noble, Rodriguez, Cooper and Francis

Motion to accept the Administrative Closure carried 5-0.

OLD BUSINESS

Larry Williams reported that new Commissioners had not been appointed as yet. Two names had been submitted to the Mayor and the third was still being selected. Once all three appointments were submitted to Mayor Beutler, he would forward his recommendations to the City Council for appointment. The appointments would hopefully be finalized and in place by the next meeting (Feb. 25, 2010).

NEW BUSINESS

Larry Williams also gave more details on the April 20-21, 2010 Civil Rights Conference at the Cornhusker-Marriott. He described half-day sessions on April 20, 1-4pm. One for realtors, presented by the legal counsel from the Wichita Real Estate Assn. on fair housing. The other session would be an accessibility update; rules, regulations and code enforcement for building & safety, public works employees. This is being done through a program called Accessibility First, which is sponsored by HUD.

On April 21 will be a full day with two tracks; one on Fair Housing, the other on Equal Employment. Sessions will last 1.5 hours. Both tracks will run at the same time, but people can go back and forth between the two. There is a \$35 registration fee (to cover lunch/break refreshments) for the full-day.

Keynote speaker JoAnn Sazama from the Dept. of Justice, Office of Special Counsel for Immigration Affairs. She is a native Nebraska. Her session will be on immigration issues.

Larry introduced Crystal Scholl who is volunteering as an intern.

PUBLIC COMMENTS

No public comments.

ADJOURNMENT

Meeting adjourned at 4:45 p.m.

NEXT MEETING

The next meeting is scheduled for **4 p.m, Thursday, February 25, 2010** in the Council Chambers.